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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

WEDNESDAY, THE 18<sup>TH</sup> DAY OF MARCH 2026/27<sup>TH</sup> PHALGUNA, 1947

WP(C) NO. 9770 OF 2026

PETITIONER:

SREEROSH DEVELOPERS PRIVATE LIMITED  
REPRESENTED BY ITS DIRECTOR,  
MR.REJI A.P., 3RD FLOOR, SREEROSH CENTRE,  
NEAR ASHOKA HOSPITAL, SOUTH BAZAAR,  
KANNUR, PIN - 670002

BY  
ADV.NAYANPALLY RAMOLA  
ADV.PRANOY HARILAL  
ADV.LIZ JOHNY  
ADV.GIRIDHAR KRISHNA KUMAR

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY THE CHIEF SECRETARY,  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR & CHAIRPERSON,  
DISTRICT DISASTER MANAGEMENT AUTHORITY,  
KANNUR COLLECTORATE KANNUR, CIVIL STATION,  
KANNUR, PIN - 670002



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- 3 DISTRICT DISASTER MANAGEMENT AUTHORITY, KANNUR  
OFFICE OF THE DISTRICT COLLECTOR, COLLECTORATE,  
THAVAKKARA, KANNUR, KERALA, PIN - 670002
- 4 KANNUR MUNICIPAL CORPORATION  
REPRESENTED BY ITS SECRETARY, MUNICIPAL  
CORPORATION OFFICE, KANNUR, PIN - 670001
- 5 GROUND WATER DEPARTMENT, KANNUR  
REPRESENTED BY THE DISTRICT OFFICER, CIVIL  
STATION, SECOND, THAVAKKARA, KANNUR, PIN - 670002
- 6 CHOVVA ACTION COUNCIL  
REPRESENTED BY ITS CONVENOR,  
CHOVVA, KANNUR, PIN - 670006

BY

ADV.M.MEENA JOHN - STANDING COUNSEL  
(KANNUR MUNICIPAL CORPORATION)

ADV.VIDHYA A.C. - GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 18.03.2026, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



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“C.R.”

**J U D G M E N T**

*Dated this the 18<sup>th</sup> day of March, 2026*

Ext.P10 - a stop memo issued in purported invocation of the powers under Section 30(2)(v) of the Disaster Management Act, 2005 ('the Act', for short) - is under challenge in this Writ Petition. Ext.P10 called upon the petitioner to stop all construction activities at the subject site, on the allegation that it pumped huge quantities of water from low-lying areas for the construction of an apartment complex, with the result, the groundwater level of the nearby locality has depleted to an extent of 2 to 3 meters. Ext.P10 finds that such decrease in the groundwater level is due to the construction activities undertaken by the petitioner, especially in its conduct of pumping water from natural water resources.

2. Learned counsel for the petitioner would attack Ext.P10 essentially on the following premises. The first is



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that, Ext.P10 was issued without complying with the principles of natural justice. No notice, whatsoever, was issued to the petitioner before the issuance of Ext.P10. Secondly, it was pointed out that the District Collector has no power under Section 30(2)(v) to issue a stop memo, like Ext.P10. The power, if any, available is only to the District Disaster Management Authority; and not to the District Collector, under Section 30(2)(v). Thirdly, it was also pointed out that Section 30(2)(v) does not contemplate a stop memo or notice to an individual, but only speaks of giving directions to different authorities at the district level and local authorities, in order to take measures for the prevention or mitigation of disaster. Fourthly, the allegation levelled in Ext.P10 hardly constitutes a disaster, as defined under Section 2(d) of the Act.

3. In answer to the same, learned Government Pleader would submit that the power exercised by the District Collector is, in fact, under Section 26(2) of the Act; and



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quoting Section 30(2)(v) is nothing, but a mistake. Learned Government Pleader would explain that the situation, where there was a steep decrease in the groundwater level, has been treated as an emergency, especially in the backdrop of the summer season, where there will be acute scarcity of water. It is accordingly that the emergency clause has been invoked by the District Collector to issue Ext.P10 stop memo. Learned Government Pleader would also point out that Ext.P10 was necessitated because of the mass complaints from the people in the locality, alleging decrease in the groundwater level, especially in their wells.

4. Having heard the learned counsel for the petitioner and the learned Government Pleader, this Court can only endorse the submissions made by the learned counsel for the petitioner. As rightly pointed out by the petitioner, Section 30 speaks about the powers and functions of the 'District Authority'. Ext.P10 would not reflect that the same is one issued pursuant to a meeting of the District



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Authority, consisting of the persons made mention of in Section 25 of the Act. Ext.P10 is issued by the District Collector, apparently in his individual capacity. Learned Government Pleader, after taking instructions, would concede that there was no resolution taken by the Disaster Management Authority before issuance of Ext.P10. As a matter of fact, Ext.P10 does not disclose that it is issued by the District Collector in his capacity as the Chairperson of the Disaster Management Authority. All the same it refers to Section 30(2)(v) of the Act, just below the heading 'Stop Memo'. It goes without saying that the Chairperson cannot usurp the powers vested with the Disaster Management Authority under Section 30(2)(v) of the Act. Ext.P10 is bad for that reason.

5. Secondly, the explanation offered by the learned Government Pleader that Ext.P10 is one issued invoking the powers under Section 26(2) of the Act, and that quoting Section 30(2)(v) is nothing but a mistake, also cannot be



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accepted. This Court notice that the powers, which are exercisable by the Chairperson of the District Authority (District Collector), are only those powers which are available for the District Authority. All what has been done by virtue of Section 26(2) is to bestow upon the Chairperson, such powers of District Authority, in order to meet an emergent situation. Section 26(2) also speaks of an *ex post facto* ratification of the Chairperson's action by the District Authority.

6. Whether the Disaster Management Authority or the Chairperson [invoking the powers under Section 26(2)] can issue direction or stop memo in exercise of the powers under Section 30(2)(v) of the Act?

A perusal of Section 30, which deals with the powers and functions of the District Authority, would not reveal any such power for the District Authority to give notice or stop memo to an individual. Clauses (i) to (xxix) of Section 30(2) would indicate that the powers bestowed on



the District Authority is supervisory in nature, for monitoring and coordinating the activities of the various organs of the Government at the district level, for management of a disaster. It includes preparation of a disaster management plan; coordinating and monitoring the implementation of the National Policy, National Plan etc; identifying the vulnerable areas for disasters and to ensure that measures for prevention or mitigation of disaster are undertaken by the relevant Departments of the Government; to give directions to different authorities at the district level and local authorities for taking such necessary measures; to monitor the implementation of disaster management plans; review the measures and give directions to the concerned departments of the district level to respond effectively to any disaster or threatening disaster situation etc. Section 30(2)(v), which is quoted in Ext.P10, is extracted here below:

*“30. Powers and functions of District Authority.—*

*(1) xxx*



*(2) Without prejudice to the generality of the provisions of sub-section (1), the District Authority may—*

*(i) xxx*

*(ii) xxx*

*(iii) xxx*

*(iv) xxx*

*(v) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;”*

7. It could thus be seen that Section 30(2)(v) contemplates giving directions to different authorities at the district level and local authorities to take such measures for the prevention or mitigation of disaster, as may be necessary. The powers of the District Authority is only to give necessary directions to the competent district level authority to take such measure; and not to take such measure directly by the District Authority. The point is therefore answered in the negative.



**8. Whether the instant facts answer the requirement of an emergency as contemplated in Section 26(2) of the Act:**

Section 26 deals with the powers of the Chairperson of the District Authority. Section 26(2) is extracted here below:

***“26.Powers of Chairperson of District Authority.–***

*(1) xxx*

*(2) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to ex post facto ratification of the District Authority.”*

A perusal of the above provision would indicate that the powers virtually vest with the District Authority, but the exercise of which has been given to the Chairperson, in cases of emergency. In other words, the Chairperson is empowered to exercise all or any of the powers of the District Authority in case of emergency, subject to the condition that the action taken in exercise of the power has to obtain *ex post facto* ratification by the District



Authority. Therefore, to invoke the powers under Section 26(2), the situation should be a real emergency, wherein the convening of a meeting by the District Authority is a practical impossibility. Rather, action is warranted immediately and waiting for the outcome of the Authority meeting will make the disaster happen; and if already happened, worse.

9. In the instant facts, the allegation is that due to the construction activities of the petitioner, the groundwater level has depleted. While the same is a sure ground for the competent authority of the concerned department to take action, the same cannot be construed as an emergency for the purpose of Section 26(2) of the Act. It is seriously at doubt whether the instant event of groundwater level depleting can be treated as disaster as defined under Section 2(d) of the Act. Even if the same is assumed, there is nothing to indicate a pressing emergency leaving little time for the Disaster Management Authority,



the competent body under the Act, to take necessary action. The Chairperson cannot assume any power or authority under Section 26(2), unless the component of emergency is fully satisfied. The attendant facts would not persuade this Court to arrive at that satisfaction so as to invoke the powers under Section 26(2) of the Act. At any rate, there is no case for the respondents that the action of the Chairperson has obtained *ex post facto* ratification by the District Authority. This point also is therefore answered in the negative.

**10.** The inescapable conclusion of the above discussion is that Ext.P10 cannot survive the test of law. Resultantly, Ext.P10 will stand set aside. It will be open for the competent amongst the local authorities to issue necessary Orders, in accordance with law, after complying with the principles of natural justice, unless of course the Order to be issued manifests that such principles are not liable to be followed as per law.



11. Faced with the situation, learned Government Pleader would submit that, this Court should direct the petitioner to comply with the directions contained in Ext.P9, which is issued by the 5<sup>th</sup> respondent/Ground Water Department. In answer to the same, learned counsel for the petitioner would submit that the entire piling activity in the premises is complete and that the petitioner is not using any groundwater for the purpose of construction activities, either already undertaken or to be undertaken. It will be open for the 5<sup>th</sup> respondent, or for that matter, any other competent authority, to ensure that groundwater is not being used by the petitioner contrary to the directions contained in Ext.P9.

The Writ Petition (Civil) will stand allowed as indicated above.

Sd/-

**C. JAYACHANDRAN  
JUDGE**



APPENDIX OF WP(C) NO. 9770 OF 2026

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE SYSTEM GENERATED AUTO ASSESSMENT FOR HEIGHT CLEARANCE DATED 13.01.2025 ISSUED BY THE AIRPORTS AUTHORITY OF INDIA
- Exhibit P2 A TRUE COPY OF THE CONSENT TO ESTABLISH (NO.KSPCB/KN/ICE/10092087/2025) ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD DATED 21.03.2025
- Exhibit P3 A TRUE COPY OF THE SITE NO-OBJECTION CERTIFICATE (NO.FRS/13/KNR/29089/2024/SITE) ISSUED BY THE FIRE AND RESCUE SERVICES DEPARTMENT DATED 24.03.2025
- Exhibit P4 A TRUE COPY OF THE APPROVAL (NO. LSGD/JD/KNR/9015/2024-PLG3) DATED 11.08.2025 ISSUED BY THE TOWN PLANNER IN CHARGE, KANNUR
- Exhibit P5 A TRUE COPY OF THE SITE APPROVAL AND BUILDING PERMIT (NO. BP/107384/2025) ISSUED BY THE KANNUR MUNICIPAL CORPORATION DATED 24.10.2025
- Exhibit P6 A TRUE COPY OF THE EARTH CUTTING PERMIT (NO. 230/2025-2026/OE/DOKAN-DMG/1621/2025-M) ISSUED BY THE DISTRICT OFFICE, MINING & GEOLOGY DEPARTMENT, KANNUR, DATED 18.11.2025
- Exhibit P7 A TRUE COPY OF THE RERA REGISTRATION CERTIFICATE (NO.K-RERA/PRJ/KNR/157/2025) DATED 01.12.2025
- Exhibit P8 A TRUE COPY OF THE INVOICES DATED 24.01.2026, 31.01.2026, 09.02.2026, 16.02.2026, 28.02.2026 AND 06.03.2026 ISSUED BY THE KERALA WATER AUTHORITY
- Exhibit P9 A TRUE COPY OF THE REPORT/CLEARANCE (NO. GWDKNR/236/2026-T ISSUED BY THE DISTRICT



Exhibit P10

OFFICER, GROUND WATER DEPARTMENT,  
KANNUR, DATED 28.02.2026

A TRUE COPY OF THE STOP MEMO (NO.  
DCKNR/1386/2026-DM2) ISSUED BY THE 2ND  
RESPONDENT DATED 09.03.2026